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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,489	03/23/2004	Matsuhiko Nishizawa	10939/2172	3061

29932 7590 03/15/2007  
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EXAMINER
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LILLING, HERBERT J

ART UNIT	PAPER NUMBER
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1657

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
30 DAYS	03/15/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT
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PAPER
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20070226

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

The reply filed on February 08, 2007 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

Applicant has failed to be in full compliance with the following:

Paragraph 4 recited the following:

The species are independent or distinct.....Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added.

Paragraph 5 recited the following:

Applicant is advised that the reply to this requirement to be complete must include (i).....and (ii) identification of the claims encompassing the elected invention.

Applicant is required to be in full compliance with each of the elections based on the claims encompassing the elected species. Applicant has failed to comply the above since at least both claims 9 and 10 were not within the above requirements.

In view of the elected Invention drawn to independent claim 7 which has been amended, the following species as submitted in Paragraph 4 of the requirement for Part C has been amended for further clarification:

C. Whereby the enzyme contains electrode comprising at least one enzyme selected from the group consisting of:

Ca. One enzyme selected from the group consisting of:

- i. diaphorase,
- ii. dehydrogenase,
- iii. NADH,
- iv. other enzyme – please specify the enzyme

v. any enzyme would be enabling to practice the instant invention;

Cb. Two enzymes selected from the group consisting of:

- i. diaphorase and dehydrogenase,
- ii. diaphorase and NADH,
- iii. dehydrogenase and NADH,
- iv. any two enzymes –please specify the enzyme or enzymes required to make and practice

the instant inventions;

v. any combination of the above which includes any one or two enzymes would be enabling to make and practice the instant invention;

Cc. Three enzymes selected from the group consisting of:

- i. diaphorase and dehydrogenase and NADH,

- ii. any three enzymes – please specify the enzymes.
- iii. any three enzymes would be enabling to make and practice the instant inventions.
- Cd. Four or more enzymes-please specify the enzymes.
  - i. please specify the number of enzymes required to practice the instant inventions and required to make and practice the instant inventions-specify those required of the four or more enzymes to practice the instant invention;
  - ii. any four enzymes would be enabled to make and practice the instant inventions.
- Ce. Any variation of the above-please specify the variation.

Examiner will examine the broadest elected invention which includes Claim 7 as recited which if claims meets the guidelines of 35 USC 112 and if Examiner does not find prior art, all dependent claims would be considered for allowability. However, if Examiner finds prior art for the elected invention, Applicant will not be entitled to submit any further limitations for the elected invention from the list of species as noted in A-H.

The response must include a "listing of all claims readable thereon, including any claims subsequently added" based on the elected species.

Applicant has stated:

In electing the species referenced below, Applicants hereby request REJOINDER (see MPEP § 821.04) of all non-elected species claims upon allowance of a generic claim.

This section is drawn to restrictions but the requirement for election of species is not a restriction but an election of species. Examiner is required to examine the elected species which may or may not require the examination of further species. The arguments submitted on pages 12-14 are not drawn to the appropriate grounds since the species requirement is not a restriction but an election of species based on the fact as submitted that "The species are independent or distinct because each one of the above is distinct from each other and are considered to be patentably distinct from each other".

See 37 CFR 1.111. Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lilling whose telephone number is 571-272-0918 and Fax Number is 571-273-8300. or SPE Jon Weber whose telephone number is 571-272-0925. Examiner can be reached Monday-Friday from about 7:30 A.M. to about 7:00 P.M. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

H.J.Lilling: HJL

(571) 272-0918

Art Unit 1657

February 26, 2007 Ser No 10/807,489



HERBERT J LILLING  
Primary Examiner  
Art Unit: 1657